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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,288	04/23/2001	Todd M. Baranek	P01031US1A	3323

7590 04/21/2003

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[REDACTED] EXAMINER

CAIN, EDWARD J

ART UNIT	PAPER NUMBER
1714	8

DATE MAILED: 04/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/840,286	Applicant(s)	Baranek
Examiner	Edward Cain	Group Art Unit	1714
—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—			

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 4/9/03.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 5 and 14-17 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 5 and 14-17 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 6  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

1. The amendment received April 9, 2003 has been made of record. Claims 5 and 14-17 are pending.
2. The finality of the previous Office action is withdrawn and prosecution on the merits is hereby reopened in light of new prior art submitted by applicants.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4.
  - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. Claims 5 and 14-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB '447.

GB '447 discloses vulcanizable composition comprising rubber and bismuth trioxide. The bismuth trioxide is taught as present in amounts of 1 to 37.5% (claim 2).

These compositions are further taught as useful for the manufacture of tire parts (page 1, lines 27-36 and page 3, lines 18-21).

Therefore the reference anticipates the rejected claims.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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7. Claims 5 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB '447.

GB '447 discloses vulcanizable rubber compositions as discussed above. In the event that applicant successfully traversed the rejections above based on arguments relating to the bismuth trioxide being one of three metal oxide, it is the position of the examiner that it would have been at least obvious to one of ordinary skill in the art to silent bismuth trioxide from the oxides taught as suitable with the expectation that beneficial results would ensure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cain whose telephone number is (703) 308-0042. The examiner can normally be reached on Monday-Friday 10:00 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9311 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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E. Cain/dh  
April 17, 2003

A handwritten signature in black ink, appearing to read "E. Cain".